

## Office of the Secretary of Labor

## § 34.45

(9) Determinations. The Director shall determine at the conclusion of the investigation of a complaint whether there is reasonable cause to believe that a violation of the nondiscrimination and equal opportunity provisions of JTPA or this part has occurred.

(i) Upon making such a cause finding, the Director shall issue an Initial Determination. The Initial Determination shall notify the complainant and the respondent, in writing, of:

(A) The specific findings of the investigation;

(B) The proposed corrective or remedial action and the time by which the corrective or remedial action must be completed, as provided in § 34.44;

(C) Whether it will be necessary for the respondent to enter into a written agreement, as provided in § 34.45; and

(D) The opportunity to engage in voluntary compliance negotiations.

(ii) Where a no cause determination is made, the complainant and the respondent shall be so notified in writing. Such determination represents final agency action of the Department.

### § 34.44 Corrective and remedial action.

(a) A Letter of Findings, Notice to Show Cause, or Initial Determination, issued pursuant to §§ 34.40, 34.41 or 34.43 respectively, shall include the specific steps the grant applicant or recipient, as applicable, must take within a stated period of time in order to achieve voluntary compliance.

(b) Such steps shall include, but are not limited to:

(1) Actions to end and/or redress the violation of the nondiscrimination and equal opportunity provisions of JTPA or this part;

(2) Make whole relief where discrimination has been identified, including, as appropriate, back pay (which shall not accrue from a date more than 2 years prior to the filing of the complaint or the initiation of a compliance review) or other monetary relief; hire or reinstatement; retroactive seniority; promotion; benefits or other services discriminatorily denied; and

(3) Such other remedial or affirmative relief as the Director deems necessary, including but not limited to

outreach, recruitment and training designed to ensure equal opportunity.

(c) Monetary relief may not be paid from Federal funds.

### § 34.45 Notice of violation; written assurances; Conciliation Agreements.

(a) *State Programs.* (1) Violations at State-office level. Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of JTPA or this part has occurred at the State-office level, he or she shall notify the Governor through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, pursuant to §§ 34.40, 34.41 or 34.43 respectively. The Director may secure compliance with the nondiscrimination and equal opportunity provisions of JTPA and this part through, among other means, the execution of a written assurance and/or Conciliation Agreement, pursuant to paragraph (d) of this section.

(2) Violations below State-office level. Where the Director has determined that a violation of the nondiscrimination and equal opportunity provisions of JTPA or this part has occurred below the State-office level, the Director shall so notify the Governor and the violating recipient(s) through the issuance of a Letter of Findings, Notice to Show Cause or Initial Determination, as appropriate, pursuant to §§ 34.40, 34.41 or 34.43 respectively.

(i) Such issuance shall: (A) Direct the Governor to initiate negotiations immediately with the violating recipient(s) to secure compliance by voluntary means;

(B) Direct the Governor to complete such negotiations within 30 days of the Governor's receipt of the Notice to Show Cause or within 45 days of the Governor's receipt of the Letter of Findings or Initial Determination, as applicable. The Director reserves the right to enter into negotiations with the recipient at any time during the period. For good cause shown, the Director may approve an extension of time to secure voluntary compliance. The total time allotted to secure voluntary compliance shall not exceed 60 days.